

Maine Revised Statutes

Title 38: WATERS AND NAVIGATION

Chapter 13: WASTE MANAGEMENT HEADING: PL 1987, c. 517, §4 (rpr)

§1310-S. PUBLIC AND LOCAL PARTICIPATION

In addition to provisions for public participation provided pursuant to Title 5, chapter 375, the following provisions apply to an application for a solid waste disposal facility. [1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §249 (AMD).]

1. Notification. A person applying for a license under this article or giving notice to the commissioner pursuant to section 485-A shall give, at the same time, written notice to the municipal officers of the municipality in which the proposed facility may be located and shall publish notice of the application in a newspaper of general circulation in the area.

[2011, c. 655, Pt. GG, §14 (AMD); 2011, c. 655, Pt. GG, §70 (AFF) .]

1-A. Preliminary notice. Sixty days prior to submitting an application to the commissioner regarding a specific site for a solid waste disposal facility, the applicant shall notify by certified mail the municipal officers of the municipality in which the site is located or, in the unorganized territories, the county commissioners with jurisdiction over the site.

[1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §249 (AMD) .]

2. Public hearing. The department may hold an adjudicatory public hearing within the municipality in which the facility may be located or in a convenient location in the vicinity of the proposed facility. The department shall hold an adjudicatory public hearing on an application for a new or expanded commercial or state-owned solid waste disposal facility that accepts special waste upon request from a resident or a property owner in the municipality in which the proposed facility is located. Upon a timely request for an adjudicatory hearing from 5 or more residents in the municipality in which the facility is located or abutting property owners of the facility, the commissioner shall hold an adjudicatory public hearing on an application for a vertical increase in the approved final elevation that would increase the waste disposal capacity of a commercial or state-owned solid waste disposal facility that accepts special waste or the commissioner shall request that the board assume jurisdiction in accordance with section 344, subsection 2-A. At a hearing on an application for a vertical increase in the approved final elevation that would increase the waste disposal capacity, the testimony is limited to issues related to relevant standards of review under chapter 13, subchapter 1-A. The hearing must be conducted in accordance with Title 5, chapter 375, subchapter 4. Administrative expenses of a hearing held pursuant to this subsection and all costs incurred by the department in processing an application must be paid for by the person applying for the license as provided in department rules.

[2005, c. 341, §1 (AMD) .]

3. Automatic municipal intervenor status. The municipal officers, or their designees, from the municipality in which the facility would be located have intervenor status if they request it within 60 days of notification under subsection 1. The intervenor status granted under this subsection applies in any proceeding for a license under this article. Immediately upon the commissioner's receipt of such a request, the intervenors have all rights and responsibilities commensurate with this status.

[1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §249 (AMD) .]

3-A. Automatic abutter intervenor status. An abutting property owner has intervenor status in any public hearing held pursuant to subsection 2 if the property owner requests it no later than 10 days following public notice of the hearing. Immediately upon the commissioner's receipt of such a request, the intervenor has all rights and responsibilities commensurate with this status. A party granted intervenor status under this subsection is not eligible for intervenor assistance grants or reimbursements pursuant to subsection 4.

For purposes of this subsection, "abutting property owner" means an owner of property that is both contiguous to the property on which a facility is proposed and within 1 mile of the location of the proposed facility site, including property directly across a public or private right-of-way.

[1997, c. 624, §16 (NEW) .]

4. Financial assistance. The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under subsection 3, not to exceed \$50,000. The board shall adopt rules governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, waste generation and recycling studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not eligible for reimbursement under this subsection. Expenses otherwise eligible under this section that are incurred by the municipality after notification pursuant to subsection 1 are eligible for reimbursement under this subsection only if a completed application is accepted by the department. The commissioner may make an additional assistance grant not to exceed \$50,000, to be paid by the applicant as provided in department rules, to any party granted intervenor status under subsection 3 on an application for the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling when the intervenor demonstrates to the commissioner that the size, nature, location, geological setting or other relevant factors warrant additional expenditures for technical assistance. The board shall also establish rules governing:

A. The process by which an intervenor under subsection 3 may gain entry to the proposed facility site for purposes of reasonable inspection and site investigations under the auspices of the department; and [1989, c. 890, Pt. A, §40 (AFF); 1989, c. 890, Pt. B, §249 (AMD).]

B. The reduction in the maximum level of reimbursable costs to the extent the municipality establishes by local ordinance any substantially similar financial requirements of the applicant. [1987, c. 517, §25 (NEW) .]

[1997, c. 624, §17 (AMD) .]

5. Unincorporated townships and plantations. For the purposes of this section, county commissioners shall act as municipal officers for unincorporated townships, and assessors of plantations shall act as municipal officers for plantations.

[1987, c. 557, §3 (NEW) .]

SECTION HISTORY

1987, c. 517, §25 (NEW). 1987, c. 557, §3 (AMD). 1989, c. 15, §§1,2 (AMD). 1989, c. 585, §E32 (AMD). 1989, c. 890, §§A40,B249 (AMD). 1991, c. 794, §1 (AMD). 1993, c. 378, §8 (AMD). 1995, c. 465, §A19 (AMD). 1995, c. 465, §C2 (AFF). 1995, c. 656, §A25 (AMD). 1997, c. 624, §§15-17 (AMD). 2005, c. 341, §1 (AMD). 2011, c. 655, Pt. GG, §14 (AMD). 2011, c. 655, Pt. GG, §70 (AFF).

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